

Senate Confirmation:

MESKILL JUDGESHIP APPROVED AFTER LONG DELAY

Eight months after he had been nominated, former Gov. Thomas J. Meskill (R Conn.) was confirmed April 22 by the Senate on a 54-36 vote as a judge on the Second U.S. Circuit Court of Appeals. (*Vote 141, p. 892*)

This was the first recorded vote in the Senate on a judicial appointment since the Dec. 10, 1971, vote on the nomination of Justice William H. Rehnquist to the Supreme Court. (*1971 CQ Almanac p. 851*)

Meskill was approved with strong Republican (33-3) support. The three voting against him were Charles H. Percy (Ill.), Richard S. Schweiker (Pa.) and Robert T. Stafford (Vt.). A majority of Democrats (21-33) opposed him.

The vote was a setback for the American Bar Association, which had opposed his nomination on the grounds that he lacked the legal background or experience to serve on the prestigious appeals court which hears appeals from federal cases in New York, Vermont and Connecticut.

The last time the Senate approved a nominee to the circuit court who was opposed by the ABA was in 1965 when it confirmed Edward M. McEntee to a judgeship on the First U.S. Circuit Court of Appeals.

The ABA's opposition was the main issue in the two days of Senate debate (April 21-22). Many senators, led by Lowell P. Weicker Jr. (R Conn.), Meskill's sponsor, maintained that the ABA improperly disregarded the public service experience of Meskill, who at 47 had been mayor of New Britain, a two-term representative (1967-71), and governor from 1971 to 1975.

The sharpest criticism of the ABA, which traditionally has evaluated federal judicial nominations, came from Roman L. Hruska (R Neb.), the ranking minority member of the Judiciary Committee, and William Lloyd Scott (R Va.).

Hruska said that the "Senate is being asked to accept the extremely narrow standards which the ABA requires of nominees to the federal bench." He called the "ABA's standard...too restrictive. It would prevent all but an extremely small number of practicing lawyers from serving on the bench."

Scott reminded the Senate that the "Constitution does not say a thing about the American Bar Association."

Meskill received strong backing from Connecticut's senior senator, Abraham Ribicoff (D). "I reject and reject strongly the idea that a man who devotes himself to public life is incompetent to be a judge of a circuit court," he said.

Opponents, led by Quentin N. Burdick (D N.D.), contended that Meskill was not qualified for the judgeship since he had only a modest law practice before entering politics and had never appeared before the appeals court. They also charged that as governor he tolerated abuses in state leasing policies that were still a scandal in Connecticut, showing indifference to the appearance of propriety.

Philip A. Hart (D Mich.) warned that Senate approval of Meskill's nomination would undermine its responsibility to advise the President on judicial nominations. "If we consent...to the Meskill nomination," he said, "there is and will be reason to believe, reason to wonder, that the Senate is not playing the effective role in the staffing of the federal courts. What we will be doing if we do not consent is advising the President that he could do vastly better."

John V. Tunney (D Calif.) charged that "by any standard of legal experience, Mr. Meskill is not qualified" for the judgeship. "We should not put a person on the second circuit court who needs on-the-job training," he said.

The Judiciary Committee approved Meskill's nomination March 21 (Exec Rep 94-3) by an 8-6 vote. Meskill had been first named by President Nixon on Aug. 8, 1974, and renominated twice by President Ford. (*Committee action, Weekly Report p. 660*)

House Action:

PER DIEM ALLOWANCE

The House April 21 by voice vote passed a bill (HR 4834) to increase the per diem, mileage and travel expense allowances for federal employees traveling on official business. The House Government Operations Committee reported the bill (H Rept 94-104) March 20 by voice vote.

The committee Feb. 6 had reported a similar bill (HR 2302—H Rept 94-5). But Jack Brooks (D Texas), committee chairman, requested that it be recommitted to his committee after it was disclosed that the measure would have made the travel allowances available to senators and their personal staffs. (*Earlier action, Weekly Report p. 411*)

HR 4834, as passed:

- Raised the maximum per diem rate for federal employees traveling on government business to \$35 from \$25.
- Raised the maximum actual expense reimbursement to \$50 from \$40 per day. This is to be paid only in unusual circumstances and in designated high-cost areas.
- Raised mileage allowances for privately owned automobiles to 20 cents per mile from 12 cents. Allowances also were increased for motorcycles and airplanes.
- Increased the maximum reimbursement for actual expenses for travel outside the United States to \$21 per day, from \$18, in addition to the prescribed locality rate.

The existing per diem of \$25 was established in 1969 and the mileage allowance of 12 cents in 1961.

The bill was supported by the Office of Management and Budget, the General Services Administration and federal employee unions.

Urging passage of the legislation, Brooks called it "extremely important to our federal employees who are bearing the brunt of inflation under ceilings for travel expenses imposed some years ago."

After passing HR 4834, the House amended S 172, the Senate version, with provisions of the House bill and passed that instead.

President Ford had vetoed a bill (S 3341) in late 1974 that would have increased per diem allowances. That bill would have extended the allowances to disabled veterans traveling to Veterans Administration facilities and to senators. Ford said he vetoed it because extending the allowances to disabled veterans would be inflationary.

HR 4834 did not extend the allowances to disabled veterans or to senators and their personal staffs.

Brooks said he believed the Senate would accept the House bill as passed, but "if not, we will certainly resist any provisions" extending travel allowances to senators.